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U.S. DISTRICT COURT E.D.N.Y.

★ JUL 10 2012 ★

BROOKLYN OFFICE
Civil Action No.:

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
CHRISTIAN ACOSTA,

Plaintiff,

-against-

NORTHSTAR LOCATION SERVICES, LLC.,

Defendant(s).

COMPLAINT

DEMAND FOR JURY TRIAL

SUMMONS ISSUED

Plaintiff CHRISTIAN ACOSTA ("Plaintiff"), by and through his attorneys, M. Harvey Rephen & Associates, P.C., as and for its Complaint against the Defendant NORTHSTAR LOCATION SERVICES, LLC. (hereinafter referred to as "Defendant(s)"), respectfully sets forth, complains and alleges, upon information and belief, the following:

INTRODUCTION/PRELIMINARY STATEMENT

1. Plaintiff brings this action on his own behalf for damages and declaratory and injunctive relief arising from Defendant's violation(s) of §1692 et seq. of Title 15 of the United States Code ("U.S.C."), commonly referred to as the Fair Debt Collections Practices Act ("FDCPA").

PARTIES

2. Plaintiff is a resident of the State of New York, residing at 41-97 Forbes St., 3rd flr. Elmhurst, NY 11373.

3. Defendant NORTHSTAR LOCATION SERVICES, LLC. is a New York corporation with their main office at 4285 Genessee St., Cheektowaga, NY 14225-1943.

4. Plaintiff is a "consumer" as defined by the FDCPA, 15 USC § 1692 a (3).

5. Defendant is a "debt collector", as defined and used in the FDCPA under 15

U.S.C. § 1692a (6).

JURISDICTION AND VENUE

6. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331, as well as 15 U.S.C. § 1692 et seq. and 28 U.S.C. § 2201. If applicable, the Court also has pendent jurisdiction over the state law claims in this action pursuant to 28 U.S.C. § 1367(a).

7. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(2).

FACTUAL ALLEGATIONS

8. Plaintiffs repeats, reiterates and incorporates the allegations contained in paragraphs numbered “1” through “7” herein with the same force and effect as if the same were set forth at length herein.

9. On information and belief, Defendant, on behalf of a third-party, or itself, as purchaser of the Debt (as hereinafter defined), began collection efforts on an alleged consumer debt (the “Debt”) allegedly owed to Capital One (“Capital One”).

10. On information and belief, and better known to Defendant, Defendant began its collection efforts for the Debt by calling Plaintiff on March 27th, 2012. During the call, Defendant stated the Debt was in “pre-legal” status. The term “pre-legal” status is meaningless, in that disputes of all kinds prior to litigation are in pre-legal status. The term “pre-legal” status was used to scare and intimidate a lay person unfamiliar with legal terminology.

11. Defendant then stated that Capital One instructed Defendant to inform Plaintiff that Capital One is “prepared to proceed with the steps necessary to obtain a payment including possible legal action...” The forgoing statement violates various

provisions or the FDCPA because it is deceptive and misleading as Capital One never instructed the Defendant Debt Collector to inform the Plaintiff that Capital One is “prepared to proceed with the steps necessary to obtain a payment including possible legal action...”

12. Defendant's statements during the conversation were unfair, deceptive, misleading and contradictory and hence, violate 15 U.S.C. § 1692e preface, e (10) and f preface. On the one hand, Defendant stated that Capital One was prepared to take legal action to enforce collection of the Debt. On the other hand, when Defendant was questioned by Plaintiff as to whether Defendant planned to take Plaintiff to Court, Defendant responded: “I don't know what measure they are going to take. That's up to our client (meaning, Capital One)”. The foregoing contradictory remarks were unfair, confusing, deceptive and misleading.

FIRST CAUSE OF ACTION

(Violations of the FDCPA)

13. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered “1” through “12” herein with the same force and effect as if the same were set forth at length herein.

14. Defendant's debt collection efforts attempted and/or directed towards the Plaintiff violated various provisions of the FDCPA, including, but not limited to, 15 U.S.C. § 1692e preface, e (10) and f preface.

15. As a result of Defendant's violations of the FDCPA, Plaintiff has been damaged and is entitled to damages in accordance with the FDCPA.

DEMAND FOR TRIAL BY JURY

16. Plaintiff CHRISTIAN ACOSTA, hereby respectfully requests a trial by jury for all claims and issues in its Complaint to which he is or may be entitled to a jury trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff CHRISTIAN ACOSTA demands judgment from the Defendants NORTHSTAR LOCATION SERVICES, LLC., as follows:

- A. For actual damages provided in, and pursuant to,
15 U.S.C. § 1692k(a)(1);
- B. For statutory damages provided in, and pursuant to,
15 U.S.C. § 1692k(2)(A);
- C. For statutory damages provided in, and pursuant to,
15 U.S.C. § 1692k(2)(B);
- D. For attorneys' fees and costs provided in, and pursuant to,
15 U.S.C. § 1692k(a)(3);
- E. A declaration that the Defendant's practices violated the FDCPA;
- F. For any such other and further relief, as well as further costs, expenses and disbursements of this action, as this Court may deem just and proper.

Dated: New York, New York
June 23rd, 2012

Respectfully submitted,

By:  _____

M. Harvey Rephen, (MR3384), Esq.
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Attorney for the Plaintiff Christian Acosta

To: Northstar Location Services, LLC
4285 Genesee St.
Cheektowaga, NY 14225-1943

(Via Prescribed Service)

Clerk,
United States District Court, Eastern District of New York
(For Filing Purposes)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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COMPLAINT

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